



## UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II  
290 BROADWAY  
NEW YORK, NEW YORK 10007-1866



CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

Honorable Julien Neals  
City of Newark  
Department of Law  
920 Broad Street  
Newark, NJ 07102

Re: Riverside Avenue Site, Newark, Essex County, New Jersey  
Request for Information Pursuant to the Comprehensive Environmental  
Response, Compensation and Liability Act, 42 U.S.C. §§ 9601 - 9675

Dear Mr. Neals:

This letter seeks your cooperation in providing information and documents relating to the contamination of the Riverside Avenue Site in Essex County, New Jersey ("Site" as described in #4 of the definitions). The U.S. Environmental Protection Agency ("EPA") is charged with responding to the release or threatened release of hazardous substances, pollutants and contaminants into the environment and with enforcement responsibilities under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. §9601, et seq. (also known as the "Superfund" law). For your information, a copy of the Superfund law may be found at [www.epa.gov/superfund/action/law/index.htm](http://www.epa.gov/superfund/action/law/index.htm).

We encourage you to give this matter your immediate attention and request that you provide a complete and truthful response to the attached Request for Information to EPA **within thirty (30) calendar days of your receipt of this letter.**

At the request of the New Jersey Department of Environmental Protection ("NJDEP"), EPA conducted an investigation of the conditions at the Site, an abandoned industrial facility located 1700-1712 & 1702-1716 McCarter Hwy also known as 29 Riverside Avenue, (Block, 614, Lots 63,64), Newark, Essex County, New Jersey. As a result of these investigations, EPA has documented the release and threatened release of hazardous substances into the environment at the Site.

Under Section 104(e) (2) of CERCLA, 42 U.S.C. § 9604(e) (2), EPA has broad information gathering authority which allows EPA to require persons to provide information and/or documents relating to the materials generated, treated, stored, or disposed of at or transported to a facility, the nature or extent of a release or threatened release of a hazardous substance, pollutant, or contaminant at or from a facility, and the ability of a person to pay for or perform a cleanup.

While EPA seeks your cooperation in this investigation, your compliance with the attached Request for Information is required by law. When you have prepared your response to the Request for Information, please sign and have notarized the enclosed "Certification of Answers to Request for Information," and return that Certification to EPA along with your response. Please note that false, fictitious, or fraudulent statements or representations may subject you to civil or criminal penalties under federal law. In addition, Section 104 of CERCLA, 42 U.S.C. § 9604, authorizes EPA to pursue penalties for failure to comply with a Request for Information.

Some of the information EPA is requesting may be considered by you to be confidential business information. Please be aware that you may not withhold the information on that basis. If you wish EPA to treat all or part of the information confidentially, you must advise EPA of that fact by following the procedures described in the Instructions included in the attached information request, including the requirement of supporting your claim of confidentiality.

If you have information about other parties who may have information which may assist the Agency in its investigation of the Site or may be responsible for the material stored at the Site, that information should be submitted within the time frame noted above.

Please note that if after submitting your response you obtain additional or different information concerning the matters addressed by our Request for Information, it is necessary that you promptly notify EPA.

This Information Request is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. §3501 et seq.

Your response to this Request for Information should be mailed to:

William J. Reilly, Jr.,  
Assistant Regional Counsel  
Office of Regional Counsel  
U.S. Environmental Protection Agency, Region II  
290 Broadway, 17th Floor  
New York, New York 10007-1866

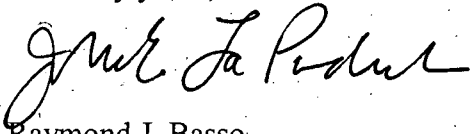
A copy of your reply should be sent to:

Ms. Marissa Truono  
Removal Action Branch  
U.S. Environmental Protection Agency, Region II  
2890 Woodbridge Avenue, Bldg 205  
Edison, New Jersey 08837

If you have any questions regarding this Request for Information, or would like to discuss this matter with EPA, please contact Mr. Reilly at (212) 637-3154.

We appreciate and look forward to your prompt response to this matter.

Sincerely yours,



Raymond J. Basso  
Strategic Integration Manager  
Emergency and Remedial Response Division

Enclosures

cc: David L. Isabel, Esq.

## ATTACHMENT A

### INSTRUCTIONS FOR RESPONDING TO REQUEST FOR INFORMATION

#### DIRECTIONS

1. Answer Every Question Completely. A separate response must be made to each of the questions set forth in this Request for Information. For each question contained in this letter, if information responsive to this information request is not in your possession, custody, or control, please identify the person(s) from whom such information may be obtained.
2. Number Each Answer. Precede each answer with the corresponding number of the question and the subpart to which it responds.
3. Provide the Best Information Available. Provide responses to the best of Respondent's ability, even if the information sought was never put down in writing or if the written documents are no longer available. You should seek out responsive information from current and former employees and/or agents. Submission of cursory responses when other responsive information is available to the Respondent will be considered non-compliance with this Request for Information. Whenever in this Request for Information there is a request to identify a natural person or an entity other than a natural person, state, among other things, the person or entity's full name and present or last known address.
4. Identify Sources of Answers. For each question, identify (see Definitions) all the persons and documents that you relied on in producing your answer.
5. Inability to Answer or Provide Documents. If you are unable to answer a question in a detailed and complete manner or if you are unable to provide any of the information or documents requested, indicate the reason for your inability to do so. If you have reason to believe that there is an individual who may be able to provide more detail or documentation in response to any question, state that person's name and last known address and telephone number and the reasons for your belief.
6. Documents. If anything is deleted from a document produced in response to this Request for Information, state the reason for, and the subject matter of, the deletion. If a document is requested but is not available, state the reason for its unavailability.
7. Continuing Obligation to Provide and to Correct Information. If additional information or documents responsive to this Request become known or available to you after you respond to this Request, EPA hereby requests pursuant to Section 104(e) of CERCLA that you supplement your response to EPA.
8. Confidential Information. The information requested herein must be provided even though you may contend that it includes confidential information or trade secrets. You may assert a confidentiality claim covering part or all of the information

requested, pursuant to Sections 104(e)(7)(E) and (F) of CERCLA, 42 U.S.C. §§ 9604(e)(7)(E) and (F), and Section 3007(b) of the Resource Conservation and Recovery Act ("RCRA"), 42 U.S.C. § 6927(b), and 40 C.F.R. Part 2.203(b). To prove your claim of confidentiality, each document must separately address the following points:

- a. the portions of the information alleged to be entitled to confidential treatment;
- b. the period of time for which confidential treatment is desired (e.g., until a certain date, until the occurrence of a specific event, or permanently);
- c. measures taken by you to guard against the undesired disclosure of the information to others;
- d. the extent to which the information has been disclosed to others, and the precautions taken in connection therewith;
- e. pertinent confidentiality determinations, if any, by EPA or other federal agencies, and a copy of any such determinations or reference to them, if available; and
- f. whether you assert that disclosure of the information would be likely to result in substantial harmful effect on your business' competitive position, and if so, what those harmful effects would be, why they should be viewed as substantial, and an explanation of the causal relationship between disclosure and such harmful effects.

To make a confidentiality claim, please stamp or type "CONFIDENTIAL" on all confidential responses and any related confidential documents. Confidential portions of otherwise nonconfidential documents should be clearly identified. You should indicate a date, if any, after which the information need no longer be treated as confidential. Please submit in separate envelopes both a clean and a redacted version of any documents or response for which you make a claim of confidentiality.

All confidentiality claims are subject to EPA verification. It is important that you satisfactorily show that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so, and that it is not and has not been obtainable by legitimate means without your consent. Information covered by such claim will be disclosed by EPA only to the extent permitted by Section 104(e) of CERCLA. If no such claim accompanies the information when it is received by EPA, it may be made available to the public by EPA without further notice to you.

9. Disclosure to EPA Contractor: Information which you submit in response to this Request for Information may be disclosed by EPA to authorized representatives of the United States, pursuant to 40 C.F.R. Part 2.310(h), even if you assert that all or part of it is confidential business information. Please be advised that EPA intends to disclose all responses to this Request for Information to one or more of its private contractors for the purpose of organizing and/or analyzing the information contained in the responses to this Request for Information. If you are submitting information which you assert is entitled to treatment as confidential business information, you may comment on this intended disclosure within fourteen (14) days of receiving this Request for Information.

10. Personal Privacy Information. Personnel and medical files, and similar files the disclosure of which to the general public may constitute an invasion of privacy should be segregated from your responses, included on separate sheet(s), and marked as "Personal Privacy Information."
11. Objections to Questions. If you have objections to some or all the questions within the Request for Information letter, you are still required to respond to each of the questions.

#### DEFINITIONS

The following definitions shall apply to the following words insofar as they appear in this Request for Information.

1. The terms "you," shall mean the City of Newark.
2. The terms "your municipality," or "the City" shall mean the City of Newark, its predecessors, successors, agencies, political subdivisions, branches, officers, managers, employees, contractors, trustees, assigns or agents.
3. The term "person" shall include any individual, firm, unincorporated association, partnership, corporation, trust, or other entity.
4. The term "Site" shall mean the Riverside Avenue Site which includes property and buildings numbered 7/8 and 12 located at 1700-1712 & 1702-1716 McCarter Hwy also known as 29 Riverside Avenue (Block 614, Lots 63,64), Newark, Essex County, New Jersey.
5. The term "waste" or "wastes" shall mean and include trash, garbage, refuse, by-products, solid waste, hazardous waste, hazardous substances, and pollutants or contaminants, whether solid, liquid, or sludge, including but not limited to containers for temporary or permanent holding of such wastes.
6. The term "hazardous substance" shall have the same definition as that contained in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), and includes any mixtures of such hazardous substances with any other substances, including mixtures of hazardous substances with petroleum products or other nonhazardous substances. The substances which have been designated as hazardous substances pursuant to Section 102(a) of CERCLA, 42 U.S.C. § 9602(a), (which, in turn, comprise a portion of the substances that fall within the definition of "hazardous substance" under Section 101(14) of CERCLA) are set forth at 40 C.F.R. Part 302.
7. The terms "hazardous waste" shall have the definition as that contained in Section 1004(5) of RCRA, 42 U.S.C. § 6903(5).
8. The term "industrial waste" shall mean any solid, liquid, or sludge or any mixtures thereof which possess any of the following characteristics:

- a. it contains one or more hazardous substances (at any concentration);
  - b. it is a hazardous waste;
  - c. it has a pH less than 2.0 or greater than 12.5;
  - d. it reacts violently when mixed with water;
  - e. it generates toxic gases when mixed with water;
  - f. it easily ignites or explodes;
  - g. it is an industrial waste product;
  - h. it is radioactive;
  - i. it is an industrial treatment plant sludge or supernatant;
  - j. it is an industrial byproduct having some market value;
  - k. it is coolant water or blowdown waste from a coolant system;
  - l. it is a spent product which could be reused after rehabilitation; or
  - m. it is any material which you have reason to believe would be toxic if either ingested, inhaled, or placed in contact with skin.
9. The term "identify" means, with respect to a natural person, to set forth:
- a. the person's full name;
  - b. present or last known business and home addresses and telephone numbers; and
  - c. present or last known employer (include full name and address) with title, position, or business.
10. With respect to a corporation, partnership, or other business entity (including a sole proprietorship), the term "identify" means to provide its full name, address, and affiliation with the individual and/or company to whom/which this request is addressed.
11. The term "entity" or "entities" refers to persons, individuals, companies, partnerships, or any other type of business association.
12. The term "documents" includes any written, recorded, computer-generated, or visually or aurally reproduced material of any kind in any medium in your possession, custody, or control or known by you to exist, including originals, all prior drafts, and all non-identical copies.
13. The term "arrangement" means every separate contract or other agreement between two or more persons, whether written or oral.
14. The terms "material" or "materials" mean any and all objects, goods, substances, or matter of any kind; including but not limited to wastes.
15. The term "release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discharging of barrels, containers, and other closed receptacles containing any hazardous substance or pollutant or contaminant.

16. The term "pollutant or contaminant" includes, but is not limited to, any element, substance, compound, or mixture, including disease-causing agents.
17. All terms not defined herein shall have their ordinary meaning, unless such terms are defined in CERCLA or RCRA, in which case the statutory definitions shall apply.



## ATTACHMENT B

### REQUEST FOR INFORMATION

Answer the following questions with regard to the property and buildings numbered 7/8 and 12 located at 1700-1712 & 1702-1716 McCarter Hwy also known as 29 Riverside Avenue (Block 614, Lots 63,64), Newark, Essex County, New Jersey (Site). For each response be specific as to the building number(s) and/or the Block and Lot number(s) whenever possible.

1. Describe how and when the City acquired title to the Site which includes the property and buildings numbered 7/8 and 12 located at 1700-1712 & 1702-1716 McCarter Hwy also known as 29 Riverside Avenue (Block 614, Lots 63,64) in Newark, New Jersey.
2. Describe any arrangement between the City and Jobar Packaging and Warehousing, Inc ("Jobar"), Frey Industries, Inc. ("Frey"), Universal International, Inc. ("Universal") and/or any other company, pursuant to which Jobar, Frey, Universal and/or any other company continued to occupy the Site after the date(s) on which the City acquired title. Again, be specific as to the building number(s) and Block and Lot number(s) and include:
  - a) What company(ies) continued to occupy the Site after the City acquired title?
    - i. What time period did the company(ies) occupy the Site?
    - ii. Whether there were any payments or consideration by the company(ies) to be made for the right to occupy and use the Site?
      - a. If payments were made, provide an accounting of any payments made to the City and/or other consideration given to the City.
    - iii. Whether there were any other substantive terms, such as a requirement to maintain specified insurance or maintain the property.
3. Provide a copy of any written arrangements pursuant to which Jobar, Frey, Universal and/or any other company continued to occupy the Site at any time after the City acquired title.
4. Describe any services provided by the City to Jobar, Frey, Universal and/or any other company at the Site, including building maintenance, property maintenance, garbage removal, snow removal, guard service, or the like. Again, be specific as to the building number(s) and Block and Lot number(s).

5. Provide copies of any correspondence between the City and Jobar, Frey, Universal and/or any other company that operated at the Site during the time the City owned the Site, related to the conditions at the Site and the City's obligation to maintain the Site.
6. Did the City at any time advise or instruct Jobar, Frey, Universal and/or any other company to remove drums and other containers of materials from the Site? If so, be specific as to the building number(s) and Block and Lot number(s).
7. Did the City arrange for the off-site disposal of materials discarded or disposed of at the Site, at any time? Be specific as to the building number(s) and Block and Lot number(s) and provide:
  - a) who generated the material(s);
  - b) the dates or time period during which the City disposed of material(s), or arranged for disposal of material(s), at the Site; and
  - c) the type of material(s) disposed of.
8. Provide the name, address and telephone number of any City employee or agent responsible for, involved in, or that has or had knowledge of the maintenance of the Site during the period(s) the City had title to the Site.
9. The City brought an in rem action against Merit Enterprises ("Merit") in or about April 1978, pursuant to which the City acquired title to the 29 Riverside Avenue property (Newark facility) by foreclosure. Describe the transaction and provide all relevant documentation. Also, answer the following questions specifically related to the property and buildings numbered 7/8 and 12 located at 1700-1712 & 1702- 1716 McCarter Hwy also known as 29 Riverside Avenue (Block 614, Lots 63,64) in Newark, New Jersey (Site).
  - a) State the period of time the City owned the property and/or buildings at the Site after this transaction.
  - b) Describe in detail the condition of the property and/or buildings at the Site at the time the City acquired title. Be specific as to the building number(s) and the Block and Lot(s) when describing the Site's condition:
    - i. Were there any above-ground or underground storage tanks, drums or other vessels on the property.
    - ii. If so, describe the location and condition of any such tanks, drums and/or vessels and identify the contents of each.
  - c) Did the City or Merit conduct any inspections, assessments or

investigations of the Site prior to or soon after the City took ownership of the Site?

i. If so, describe the results of the inspections, assessments or investigations and who conducted them. Provide all relevant documentation.

d) State the amount of any taxes owed to the City related to the Site when the City foreclosed on the property.

e) Describe any agreements between the City and Merit with regard to the Site.

10. The City conveyed the 29 Riverside Avenue property (Newark facility) to Industrial Development Corporation ("IDC") in or around December 1979, pursuant to which IDC acquired title to the property. Describe the transaction and provide all relevant documentation. Also, answer the following questions specifically related to the property and buildings numbered 7/8 and 12 located at 1700-1712 & 1702-1716 McCarter Hwy also known 29 Riverside Avenue (Block 614, Lots 63,64) in Newark, New Jersey (Site).

a) Describe in detail the condition of the property and/or buildings at the Site the time the City conveyed the property. Be specific as to the building number(s) and the Block and Lot(s) when describing the Site's condition.

i. Were there any above-ground or underground storage tanks, drums or other vessels on the property.

ii. If so, describe the location and condition of any such tanks, drums and/or vessels and identify the contents of each.

b) Did the City or IDC conduct any inspections, assessments or investigations of the Site prior to the City conveying ownership of the Site?

i. If so, describe the results of the inspections, assessments or investigations and who conducted them. Provide all relevant documentation.

c) State any payments or other consideration received by the City from IDC related to the Site;

i. If payments were made, provide an accounting of any payments made to the City and/or other consideration given to the City

- d) Describe any other substantive terms related to the transaction, such as a requirement to maintain specified insurance or maintain the property at the Site.

11. The City took title to the property and buildings numbered 7/8 and 12 located at 1700-1712 & 1702-1716 McCarter Hwy also known 29 Riverside Avenue (Block 614, Lots 63,64) in Newark, New Jersey (Site) in or about October 1993 by foreclosing on a tax lien against IDC/Industrial Development Association ("IDA"). Describe the transaction and provide all relevant documentation. Also, answer the following questions related to the Site:

- a) Describe in detail the condition of the property and/or buildings at the Site at the time the City acquired ownership. Be specific as to the building number(s) and the Block and Lot(s) when describing the Site's condition.
  - i. Were there any above-ground or underground storage tanks, drums or other vessels on the property.
  - iii. If so, describe the location and condition of any such tanks, drums and/or vessels and identify the contents of each.
- b) Did the City or IDC/IDA conduct any inspections, assessments or investigations of the Site prior to or soon after the City took ownership of the Site?
  - i. If so, describe the results of the inspections, assessments or investigations and who conducted them. Provide all relevant documentation.
- c) State the amount of any taxes owed to the City related to the Site when the City foreclosed on the property; and
- d) Describe any agreements between the City and IDC/IDA with regard to the Site.

Provide all relevant documentation including but not limited to maps, diagrams, photos or other documentation evidencing the condition of the property during the time frames specified in questions 10.-11., above.

12. During the time that the City held title to the property:

- a) Did the City at any time advise Jobar, Frey, Universal and/or any other company that the Site was contaminated?

- b) Did Jobar, Frey, Universal and/or any other company advise the City that the Site was contaminated?
  - c) Did the City conduct any additional assessments of the Site not referenced in questions 10.-11, above.
    - i. If so, state the date(s) of any assessment(s), who conducted them, and provide all relevant documentation.
- 13. For each response to 13.a)-e), below, be specific as the building number(s) and/or the Lot and Block number(s). At any time after the City acquired title to the Site:
  - a) Did Jobar, Frey, Universal and/or any other company request that the City, repair or restore the buildings and structures? If so, what was the City's response?
  - b) Did Jobar, Frey, Universal and/or any other company request that the City, remove drums, tanks or other vessels containing hazardous waste? If so, what was the City's response?
  - c) Did the City request that Jobar, Frey, Universal and/or any other company, repair or restore the buildings and structures? If so, what was their response(s)?
  - d) Did the City request that Jobar, Frey, Universal and/or any other company, remove drums, tanks or other vessels containing hazardous waste? If so what was their response(s)?
  - e) Describe all actions taken by the City to secure the Site and to prevent the release of hazardous substances. Provide all relevant documentation.
- 14. How does the City expect to use the Site in the future?
- 15. Does the City expect to sell or transfer the Site? If so:
  - a) Has the City entered into an arrangement with a party to take title to the Site?
  - b) What consideration will the City receive?
  - c) Has the Site property been appraised, and if so, what is the appraised value? Please provide a copy of any appraisal(s).
- 16. Provide copies of all documents consulted or relied upon to answer any of the above questions.

17. Are there any liens currently recorded against the title for the Site property?

Pursuant to the authority in Section 104(e)(2)(C) of CERCLA, 42 U.S.C. § 9604(e)(2)(C), EPA may require any person to furnish information relating to the ability of a person to pay for or to perform a cleanup. Therefore, please answer all of the following questions.

18. State whether there currently are or ever have been any insurance policies in effect that may indemnify the City against any liability that the City may incur in connection with the release of any hazardous substance at the Site. If your answer to this question is in the affirmative, please provide:

- a) the name and address of the insurance carrier;
- b) the policy number;
- c) the period during which the policy was in effect, including the expiration date;
- d) the occurrence limits of each policy; and
- e) state whether the City has copies of all policies.

For any policy that you cannot locate or obtain, provide the name of the carrier, years in effect, nature and extent of coverage, and any other information you have. EPA may request copies of all relevant policies at some future date.

19. Did or does there exist any agreement or contract (other than an insurance policy) that may indemnify the City or may require the City to indemnify another person or any entity against any liability the City may incur in connection with a release or threatened release of a hazardous substance at the Site? If your answer is in the affirmative, please provide a copy of all such agreements or contracts.
20. Identify each individual who assisted or was consulted or who answered on behalf of the City in preparation of any of its responses to this Request for Information, and indicate the responses on which he or she assisted or was consulted.
21. Identify all individuals (other than those identified in your response to question 20) who may have information or documents relating to the subject of this Request for Information, and/or the generation, handling, storage, transportation or disposal of the hazardous substances or industrial wastes located at the Site.
22. Provide any additional information or documents that may help EPA identify other persons that may have been the source of, or otherwise responsible for, the hazardous substances or industrial wastes located at the Site, and identify the source of the information or documents.

## **CERTIFICATION OF ANSWERS TO REQUEST FOR INFORMATION**

State of \_\_\_\_\_

County of \_\_\_\_\_:

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document (response to EPA Request for Information) and all documents submitted herewith, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate, and complete, and that all documents submitted herewith are complete and authentic unless otherwise indicated. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment. I am also aware that I am under a continuing obligation to supplement my response to EPA's Request for Information if any additional information relevant to the matters addressed in EPA's Request for Information or my response thereto should become known or available to me.

\_\_\_\_\_  
NAME (print or type)

\_\_\_\_\_  
TITLE (print or type)

\_\_\_\_\_  
SIGNATURE

Sworn to before me this  
day of \_\_\_\_\_, 2010

\_\_\_\_\_  
Notary Public